

# Cultural Difference and Human Rights

## A Philosophical-Anthropological Approach

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*Mit der allmählichen Überwindung der Absolutsetzung des eigenen Volkstums, das gleichwohl seinen Absolutheitsaspekt hat – in der Sphäre seines sich je schon Erschlossenseins und Verstandenhabens – zivilisiert sich die Politik. Die Kampfmittel werden andere und die Ziele werden relativer. Aber der Kampf verliert weder seine Schärfe noch sein Gewicht für die letzten menschlichen Entscheidungen.*

Helmuth Plessner (1981, p. 233)

### Introduction

Human rights are in for some serious discussion in the decades to come.<sup>1</sup> In Pablo Gilabert's (2008) terms, much of the theoretical discussion on the subject has attempted to supply either 'humanist' or 'political' justifications of human rights. It seems that reliance on one of these in isolation creates a problem. When we cite only humanist justifications, we are missing that human rights are objects of political contestation; at the same time, they seem to apply to human beings in virtue of their humanity. Many of the debates about human rights concern the question which of these captures the essence of human rights. For instance, the question how the individual subject of rights relates to more collective-oriented political systems is central to many discussions about human rights in Asia (Hansen, 1994). I will attempt to explain how these aspects of human rights interrelate, using a method that follows Joachim Fischer's paradigm of philosophical anthropology (Fischer, 2009).

Since an important part of the conflict concerns the interpretation of rights, I first pose the question what it means to interpret something. Interpretation is a response to human finitude, in the sense that it allows us to act even when we do not have a God's-eye point of

view. Spatial finitude requires a particular kind of interpretation, most centrally a conception of what culture is. I draw on the work of 'spatial finitude theorist' Helmuth Plessner and philosopher of culture Wolfgang Iser in order to show that an 'excentric' conception of culture is needed. But how does this connect to human rights? The work of Jacques Rancière offers a philosophical account of human rights that is compatible with my account of excentric culture. Having explored that account, I show that the contemporary practice of human rights can be explained in terms of Rancière's work. Circling back to Plessner's anthropology will help us to survey the landscape thus laid out, in particular the connection between spatial finitude and the conceptions of culture and human rights.

We need to come to grips with cultural difference, while not setting cultures apart in a way that foregoes future dialogue. The task I have set myself is *hermeneutical* in two ways: I argue for a particular interpretation of cultural difference (§1), and I provide a philosophical interpretation of human rights that is compatible with it (§2).

### §1 Cultural difference re-interpreted

#### The contested justification of human rights

An important question within the theoretical discussion about human rights is under what conditions they can be said to hold. We can roughly distinguish between the 'humanist' and the 'political' perspectives. The difference between these two approaches is their proposed mode of justification, in particular their take on the relation between human

rights and institutions. According to the humanist conception, “human rights are pre-institutional claims that individuals have against all other individuals in virtue of interests characteristic of their common humanity”, whereas the political conception sees them as “claims that individuals have against certain institutional structures, in particular modern states, in virtue of interests they have in contexts that include them” (Gilabert, 2008, p. 440). Pablo Gilabert has argued that the two conceptions are best viewed as complementary: we need both to “make good normative sense of the contemporary practice of human rights” (ibid.), because human rights need to be understood as a combination of abstract rights, which are compatible with a humanist account of the subject of human rights, and specific rights, which have to be interpreted, weighed and assessed in particular (political) contexts. But both the scope and content of human rights are being actively contested. This leads us to a set of fundamental interpretative questions. Do human rights require us to override cultural and religious traditions, for instance? The Bangkok Declaration of 1993 offers a typical answer to this question:

[Human rights] must be considered in the context of a dynamic and evolving process of international norm-setting bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds. (cited by Hansen, 1995, p. 399)<sup>2</sup>

Seemingly innocuous statements along these lines may function as a subordination of abstract rights to the sovereignty of particular governments (Peerenboom, 2005, p. 82; Hansen, 1994, p. 340). From the standpoint of abstract rights, it is easy to object that abstract rights should entail individual liberties independent of legal or historical contexts. As a criticism of that objection, one nation’s commentary on another’s supposed failure to observe human rights counts as meddling in national politics – this has been China’s position (Peerenboom, 2005). This, in turn, can naturally be countered by claiming that sovereignty itself should be bound to the constraints set by the human rights framework. Rehashing the disagreement in this way shows how humanist and political aspects of human rights can be opposed to one another. However, as Gilabert noted, we need to take both aspects on board – somehow. But it seems

impossible to take any position without pre-empting the interpretative conflict: criticizing one position from the opposite point of view amounts to no more than a circular argument.

Consider a parallel quandary in the context of individual human affairs. Are human beings natural or cultural creatures? In Fischer’s (2009) description, pure naturalists argue that every aspect of human existence can be explained with reference to nature. On the other end of the spectrum, pure culturalists argue that the very discourse of naturalism should be understood as a cultural phenomenon – as one discourse among many others, as much a construction as anything else (see ibid.). The paradigm of philosophical anthropology has the virtue of being a third way: it takes into account the *Sonderstellung* of the human organism while simultaneously representing man as man-in-nature (ibid.).

Human rights, too, stand in need of a place in between societal convention (‘political’) and absolute status (‘humanist’), as this would fulfill Gilabert’s requirement of combining the political and humanist conceptions of their justification. I therefore propose to analyze human rights from within the framework of philosophical anthropology.

### The role of interpretation

Conflicts of interpretation partly explain the existing disagreement on the subject of human rights. Because of the nature of abstract rights, agreement with respect to human rights will likewise arise out of a common interpretation. In both cases, proper understanding is not immediately given, but needs to be supplied by interpretation. But why would that be the case?

Hermeneutik ist die Kunst, aus einem Text herauszukriegen, was nicht drinsteht: wozu – wenn man doch den Text hat – brauchte man sie sonst? Aber braucht man sie überhaupt? Was ist das eigentlich, was man da braucht, wenn man das Interpretieren, die Hermeneutik, braucht: wie muß, wie kann die Hermeneutik selber verstanden und interpretiert werden? (Marquard, 1981, p. 117)<sup>3</sup>

Odo Marquard here asks a question that is both fundamental and urgent, especially if we expand the scope of hermeneutics from texts to foreign cultures. What does it mean to invoke an 'art' or 'ability' [*Kunst*] that is not contained within the culture to be interpreted? Marquard answers his own question in two steps. Firstly, he refers to Collingwood's and Gadamer's claims that the understanding of a given expression arises when we know the question to which it is an answer (Gadamer, 2010, p. 375). Secondly, an interpretative act positively requires partial understanding. It has to find its proper place between the extremes of total knowledge and total ignorance. In the words of Wilhelm Dilthey:

Die Auslegung wäre unmöglich, wenn die Lebensäußerungen gänzlich fremd wären. Sie wäre unnötig, wenn in ihr nichts fremd wäre. Zwischen diese beide äussersten Gegensätzen liegt sie also.  
(cited by Marquard, 1981, p. 146)<sup>4</sup>

Marquard generalizes this situation of partial understanding to the quintessentially human condition of finitude, nonetheless coupled with the necessity to act (ibid.). The answer to Marquard's question, then, is as follows: hermeneutics is a response to human finitude under conditions where we have to act. Interpreting across cultures poses a specific variant of this problem. Marquard's own discussion is limited to finitude in the temporal sense, while he also mentions the idea of spatial finitude (ibid., p. 120). Posing the question how humanist and political justifications of human rights relate to each other requires us to think about the meaning of cultural difference. This first requires a conception of what culture is, which in turn poses the question how one culture relates to another. As I hope to show, intercultural relations can be fruitfully analyzed in terms of spatial finitude.

Spatial finitude has long been a central topic in philosophical anthropology. Helmuth Plessner describes the multi-layered relations an organism [*Lebewesen*] can enter into in terms of its 'positionality'. Plessner thinks of the anthropological reality of having borders as "the constitutive principle for all organic organization" (*ihre Realsetzung [bildet] das Konstitutionsprinzip für alle organische Formung*; Plessner, 2004, p. 35). Positionality describes "the form of [the organism's] being

posed in opposition to its environment" (*die Form seiner Gestelltheit gegen das Umfeld*; ibid., p. 10). By means of this concept, Plessner is able to emphasize both the continuity and the discontinuity between non-human and human life. According to Plessner, human organisms are different from animals and plants in that they do not only relate to their surroundings, but also to their own 'center'. That is the core of man's *excentric positionality*.

Der Mensch, in seine Grenze gesetzt, lebt über sie hinaus, die ihn, das lebendige Ding, begrenzt. Er lebt und erlebt nicht nur, sondern er erlebt sein Erleben. (ibid.)<sup>5</sup>

As an expression of the paradigm of philosophical anthropology, this is not only a dispassionate analysis of consciousness of self and its rootedness in biology. Plessner also connects the framework of positionality to themes relevant to technology, religion and culture more generally, without reducing culture to nature or *vice versa*. According to Plessner, excentric positionality entails three anthropological laws, which will be important to us at a later stage (ibid., pp. 15-64):

- (1) Humanity can only be realized by non-human means;
- (2) No human has unmediated access to himself;
- (3) While humans will always seek to overcome their excentric positionality, such attempts are doomed to fail.

While Plessner is mainly interested in biology, his analysis can be transposed to matters of culture as well. His work allows us to distinguish between various cultural possibilities with regard to 'forms of being posed' in relation to other cultures. As in Plessner's biology, external relations determine the kind of cultural 'organism' we are describing – itself very much a finite creature. The relevance of applying the notion of positionality in a cultural context becomes especially clear if we realize, with Wolfgang Iser, that concepts of culture are not just descriptive, but also operative, in the sense that "our understanding of culture is an active factor in our cultural life" (Iser, 1999, p. 291). In other words, how we define culture helps to shape the culture we live in.

So far, we have seen that an interpretation is a response to finitude under conditions where action is called for. More specifically, interpretation in the context of human rights responds to spatial finitude, asking us to rethink the concept of culture. Plessner's philosophical anthropology provides a 'third way' between reductions to nature and culture, so that his concept of positionality is a promising way of thinking about human finitude.

### Welsch's concepts of culture

The central question to be asked at this point is how cultures themselves should be understood: as we will see, this will determine their interrelation, or, in Plessner's terms, their 'form of being posed'. Welsch attributes what he calls the traditional concept of culture to Johann Gottfried von Herder, who had defined culture in terms of social homogenization, ethnic consolidation and intercultural delimitation (ibid., pp. 194-195).

Let us try to apply this idea. If we think of cultural difference in Herder's way, we are left to conclude that other cultures are irreconcilably alien. Consider the cultural 'divide' between China and the West. Herder's conception firstly makes it necessary for us to think of the Chinese people and its individuals as being governed by a kind of mould, "making every act and every object an unmistakable instance of precisely *this* culture" (ibid., Welsch's emphasis). Secondly, it promises that there is an ethnic component to the culture: it is 'folk-bound', so that Westerners are always part of the Western culture, and Chinese of the Chinese (ibid.). Thirdly and finally, "[e]very culture is, as the culture of one folk, to be distinguished and so remains separated from other folks' cultures" (ibid.).

As Welsch signals, "[w]hat is called for today is a departure from this concept and to think of cultures beyond the contraposition of ownness and foreignness" (ibid., pp. 195-196). The challenges of today's intercultural affairs cannot be met by a conception of culture that represents cultures as being "constituted in the form of islands or [autonomous] spheres" (ibid., p. 198). As a consequence of that conception, conflicts concerning human rights could then only be

addressed by policies of actively ignoring or even actively repressing the other party: an attitude of dynamic engagement is out of the question (Angle, 2002, pp. 57-65). This 'form of being posed' towards other cultures is clearly not something to be encouraged from a normative point of view, and it is not clear if it is descriptively accurate.

In reality, as Welsch points out, cultures are not homogeneous and separate in the way required by the Herderian conception of culture. "Cultural conditions today are largely characterized by mixes and permeations", to which the category of "transculturality" can be applied "insofar as this form of culture passes through classical cultural boundaries" (Welsch, 1999, p. 198). Transculturality implies a high degree of internal differentiation and a new kind of relation 'between cultures'. For instance, journalism and academic culture are not rooted in local traditions: rather, what it means to be a journalist or an academic is determined by European or even global criteria, because the relevant community is not determined by territorial or linguistic sameness, but by a self-determining culture that responds to a large amount of differing affiliations (ibid., p. 199). Because of this fact, supposedly fundamentally different cultures face the same basic problems today, although they sometimes surface in different ways – Welsch explicitly refers to "the human rights debate" as being "an active factor across the board culturally" (ibid.). Certainly, this does not mean that there is only sameness – it just means that foreignness is no longer geographically determined.

To Welsch, this warrants the claim that for every culture, "all other cultures have (...) come to be inner-content or satellites" (Welsch, 1999, p. 199). Economic dependencies, migrant populations and the exchange of information are three factors in this process of dissemination, but many more could be named. It is clear that even if there were once grounds in support of drawing an absolute line around state's borders and declaring those lines to be devices of cultural containment, this is now no longer the case. The national domains of China, the European countries and the United States of America are not home to isolated processes. The concept of globalization captures an undeniable reality about present international affairs. We may hazard

a general statement to the effect that human history of *Homo sapiens* is characterized by “an increasingly accelerated pace of globalization”, but this development has exploded out of all proportion over the last decade, so that “globalization has become a decisive phenomenon in the life of almost every world citizen” (De Mul, 2011, p. 63).

Henceforward there is no longer anything absolutely foreign (...) or exclusively ‘own’ (...). Today in a culture’s internal relations – among its different ways of life – there exists *as much* foreignness as in its external relations with other cultures. (Welsch, 1999, p. 199, my italics)

Welsch himself is adamant that the traditional conception of culture is descriptively false and that only an analysis of transculturality can do justice to the complex state of international affairs. But to many, this does not seem convincing (cf. Peerenboom, 2005, p. 72). Of course, this does not make cultural difference go away. Welsch’s concepts are themselves strategies for dealing with cultural difference. Still, it seems unclear what would follow from his proposed strategy. How to solve the interpretative conflict that is central to human rights? More fundamentally, it seems that the very meaning of politics is to insist on the worth of separate communities of value or peoples (Plessner, 1981, p. 233). On a purely human level, every political subject exists as a “contingent rupture”, unable to speculate in a truly pure and abstract fashion; on the level of political philosophy, “history [itself] has conquered the absolutism of plans [thought to be] definitive for history” (ibid., p. 234; p. 233). Paraphrasing Plessner, the plurality and particularity of cultures is of a fundamental nature, and the idea that cultural difference is necessarily part of cultural life follows from this.

### The promise of excentric culture

To recapitulate, interpretation in the context of human rights offers a response to spatial finitude on the cultural level. For example, because Chinese culture is not familiar to us, interpretation is required if we are to relate meaningfully to it. Welsch has fielded two possible “interpretative perspectives” (cf. Honneth, 2000, p. 267).<sup>6</sup> If we would

consider the Chinese case from the point of view of the Herderian conception of culture, there would be no point in trying to resolve the conflict: cultures are simply bound to clash with one another. By contrast, the transcultural approach does allow for communication between cultures, because it abolishes the opposing realms of the ‘own’ and the ‘foreign’. However, the experience of cultural otherness remains, including the seemingly fundamental disagreement about human rights. The transcultural approach does not offer a satisfying answer to that experience, which should not simply be discarded.

If we are to frame both the faults of the Herderian concept, the contrast between ‘centric’ and ‘excentric’ is a more promising starting point. These concepts were already introduced during our discussion of spatial finitude. In Plessner’s philosophical anthropology, the term ‘centric’ is used to describe the organization of animal life, and indeed, part of the organization of human life. What is centric distinguishes itself from less complex forms of life by relating to its own border: it is aware of its place within the world. While the animal lives ‘as a center’, it does not experience its own ‘being’ as an object: that distance with respect to its own center is reserved for the excentric positionality that characterizes humankind (“*Die Schranke der tierischen Organisation liegt darin, daß dem Individuum sein selber Sein verborgen ist (...) [e]s bildet ein Sich, aber es erlebt nicht – sich*”, Plessner, 2004, pp. 9-10).

The Herderian culture has the centric feature of being unable to reflect on itself. A centric culture negates Plessner’s three anthropological laws: a centric culture (1) is complete in and of itself, (2) has unmediated access to itself, and (3) founds its own utopia. Any centric culture can be described as politically dangerous, precisely because other cultures can only appear to the former as irreconcilably alien. I have now repeated Welsch’s observation, but another framework informs it: for that reason, I will also propose a different solution.

Like human positionality in Plessner’s anthropology, excentric culture is layered: on the one hand, there is a core of common humanity; on the other, there are additional ‘layers’ that potentially obscure mutual understanding.<sup>7</sup> We are all in a position to understand the predicament of our fellow human beings in certain respects: for instance, we aim



to be recognized by others and we worry about our impending deaths. However, there are also characteristics that tie us to specific groups, or even individual points of view. There are cultures whose norms I can only struggle to understand. To say this is to claim that the experience of otherness is no longer absolute, as it was in the Herderian concept of culture, but still captures an element of our experience that should not be ignored. A culture does have an identity, in the sense that it is recognizable as separate from others, but that is not all it is – in a sense that Plessner can help us grasp.

If we interpret culture as an excentric phenomenon, the opposition between cultures is not the result of a locally defined otherness that defies interpretation; nor is it a case of ‘mere diversity’. We understand each other sufficiently for interpretation to be possible, but not enough for it to be superfluous. The question that remains to be answered is whether there is a way of interpreting human rights that can incorporate the excentric concept of culture. What does the excentric conception of culture require of human rights?

## §2 Excentricity and Human Rights

### Human rights and dissensus

The reflexive nature of excentric culture reveals that the subject of human rights cannot be purely centric. For that reason, the ‘humanist’ and ‘political’ justifications of human rights both fall short. What the two have in common is that they entail a non-reflexive foundation of human rights. If human rights are only justified politically, we only have to consider human rights law; if they are only justified humanistically, then a determinate set of rights exists that apply to us in virtue of being human. On both versions, once we have established what human rights demand of us, that would be the final word. We have already seen Pablo Gilabert assert that we need both in order to make sense of human rights. Now we also know why that is the case: absolute focus on either justification forecloses excentric positionality on the cultural level. In order to be compatible with the excentric conception of culture, we need to assume a reflexive subject of human rights.

According to Jacques Rancière, human rights are meaningful insofar as they are political instruments of dissensus. Understood in that way, a human right is “a division inserted in a ‘common sense’: a dispute over what is given and about the frame with which we see something as given” (Rancière, 2010, p. 69). The women of the French Revolution could not be heard by the administrators, because women were not seen as the bearers of political subjectivity: and political subjectivity resides precisely in *acting* as a bearer of rights. In this way, two worlds are combined. The apolitical world of the feminine is suddenly seen to be indistinct from the world of the political. Rancière’s final insight is that there is no truly separate political sphere. Instead, we should think of it in terms of a division. On the one hand, there is the *police* or the elements of society that are undeniably a part of it (and help keep the social mechanisms as they are). On the other hand, there is the supplement of society, consisting of ‘the part of those without part’ (those who are excluded from political participation). True politics is always the struggle against the *police*. Even if a particular struggle succeeds, this development will repeat itself. Once members of a formerly excluded group have “acted as subjects that did not have the rights they had and that had the rights they had not” (ibid.). The group’s victory consists in taking part in society for the first time. The newly created society, however, will continue to exclude other minority groups. Compare the way a cultural reference that symbolizes resistance against capitalism, say a cap bearing the likeness of the communist Che Guevara, itself becomes part of capitalist circulation. There are always new battles to be fought. Remark that those battles will always be fought in terms of uniting separate worlds. Arguably, this is precisely what interpretation is about: consider that the etymological root of the word ‘hermeneutics’ is ‘Hermes’, the Greek God who connected the human world with the divine.

This is not an accidental commonality. Recall Rancière’s insistence on the importance of the dispute about what is given, and on the frames with which we determine what is given. Recall that according to Rancière, human rights are a division inserted in a common sense or a unification of separate worlds (Rancière, 2010, p. 69). In a sense, human rights are themselves interpretations, with the power to change the world.

Because of the essentially polemical nature of politics, it is impossible to say that human rights have a fixed subject. “Not only is there no [universal] man of the Rights of Man, there is no need for one. The strength of those rights lies in the back-and-forth movement between the initial inscription of the right and the dissensual stage on which it is put to the test” (ibid., p. 71). This is the inner logic of rights: the initial description or declaration enters into ever-new situations and thus requires an ever-new subject.

This approach to human rights presupposes equality. But this is not a metaphysical, ‘natural’ or even ‘humanist’ kind of equality: according to Rancière, equality is rather a political presupposition, in his specific sense.<sup>8</sup> In this way, a follower of Rancière can avoid picking sides in the debate over what we have called ‘humanist’ and ‘political’ conceptions of human rights, because Rancière’s conception simply avoids the dilemma. This may seem to come at a price: Rancière’s political philosophy is often seen as radical and is not a mainstream position in the theoretical debate about human rights. But I argue that it *is* possible to combine Rancière’s analysis of human rights with their contemporary practice. If that argument succeeds, the ‘third-way’ interpretation of human rights has been secured.

### *Das mag in der Theorie richtig sein...*

The idea to be developed here is that human rights are tools that lend themselves to advancing the struggles of particular groups or individuals, without simultaneously being a tool of the *police*. Of course, much of the criticism that has been leveled against human rights, not only from Asia, but also from sources drawing on Islam and Western postmodernism, has taken this more politicized view of human rights as parts of Western imperialism (Ignatieff, 2001, p. 102). It seems adequate to suppose that “the substance of these rights (...) will always be contested and interpreted”, but that does not mean that human rights cannot be useful instruments for drawing attention to rights abuses all over the world (Appiah, 2005, p. 264). It is the on-going discussion about human rights itself that is essential to human rights. Taking that perspective can help us to explain why the practice of human rights need not reek of Western

imperialism at all. In Pakistan, for instance, human rights are being claimed not by external powers seeking to discredit or destabilize national sovereignty, but by women who have come to think of themselves as oppressed by their tradition (Ignatieff, 2000, p. 332).

Moreover, ‘rights talk’ is not only targeted at non-Western countries. In fact, some of the most pressing human rights concerns of today are articulated in response to acts of Western governments. Think, for instance, of the continued international upheaval surrounding Guantanamo Bay. Such occurrences are no incidents.

Whenever an asylum seeker is deported behind closed doors at an airport, whenever a ship carrying refugees capsizes on the crossing from Libya to the Italian island of Lampedusa, whenever a shot is fired at the border fence between the United States and Mexico, we, the citizens of the West, confront one more troubling question. (Habermas, 2010, p. 476)<sup>9</sup>

One of the important theoretical lessons to be drawn from the contraposition of human rights and Western practices is that the language of rights has a way of rebounding on the ones who formulated it, in a way that runs parallel to Rancière’s description of true politics and the ‘inner logic’ of rights. For the initial inscription of human rights, which was perhaps intended to secure the rights of Western elites or some other specific group, is not the end of the story. Human rights are always in the process of cutting through such boundaries, precisely because of their universal nature. Not that there are no differences between the rights claimed in different contexts: they start with the same set of (mostly abstract) rights and develop into more specific prescriptions as these abstract rights are applied to specific situations – which is to say, interpreted in specific ways. Human rights have ‘gone global by going local’: the various interpretations are going to reflect the specificity of the relevant contexts.

The back-and-forth between the ‘initial inscription’ and contemporary situations is not a new phenomenon, but can be witnessed in the 1948 drafts of the Universal Declaration of Human Rights, and perhaps much earlier.<sup>10</sup>

The international rights revolution was not led by states that already practiced what they preached. America and the European nations had not completed the juridical emancipation of their own citizens or subject peoples. Indeed, many of the states that contributed to the drafting of the Universal Declaration saw no apparent contradiction between endorsing international norms abroad and continuing oppression at home. They thought that the Universal Declaration would remain a pious set of clichés more practiced in the breach than in the observance. Yet once articulated as international norms, rights language ignited both the colonial revolutions abroad and the civil rights revolution at home. (Ignatieff, 2000, p. 289)

While human rights can certainly be used for political gain,<sup>11</sup> it does not seem persuasive in light of the above that they are *only* ‘political’ in nature. They are more than the rhetorical devices of the West or any other party, if only because their use as rhetorical devices has constraining consequences – they have a very real effect on the world of international relations.

Even if every political spokesperson of human rights is a partisan, resolved to further the cause of one group at the cost of another, the language of rights is invoked. It is important to add that because of the ‘enactive’ nature of the rights concerned, the dialogue cannot be evaded: for example, once Olympe de Gouges enacted her right as a female French revolutionary, the society in which she lived was involved in the dialogue as a direct result. Phrases like ‘language of rights’ should thus not be seen in propositional terms. Rights are not always manifested in documents: sometimes they are claimed on the level of action. What is really at stake is the unification of two separate worlds, to use Rancière’s hermeneutical phrase.

Such enactment, as we have seen, forces certain effects upon its users: human rights are a constraining framework. Human rights would never have seemed as promising to so many political actors if it did not enable them to advance their own aims. But, crucially, they can do so only if they pay equal attention to the rights of others.

The role of moral universalism is not to take activists out of politics, but to get activists to discipline their partiality – their conviction that

one side is right – with an equal commitment to the rights of the other side (...). (Ignatieff, 2000, p. 292)

[As a result], [h]uman rights [are] universal not as a vernacular of cultural prescription but as a language of moral empowerment. [Their] role is not in defining the content of culture but in trying to enfranchise all agents so that they can freely shape that content. (ibid. p. 334)

From this, it follows that even if conflict is essential to human rights (we are all activists), then the human rights framework has the means to regulate itself (rights talk constrains). So what are the constraints that the use of the human rights framework *itself* imposes on us? This answer, too, can be derived from what has already been said. Firstly, any particular content can be argued for or against, but, secondly, it can never be insisted on without the assent of those that are directly involved in the culture. In other words, no culture can claim values on behalf of another party, as that would skew the discussion: and the discussion is open with respect to its content, because it does not ‘discriminate’. Thirdly and finally, the discussion has to be animated by the presupposition of moral equality for all parties, in advance of political discussion. Equality as a condition for the contestation of rights is thus the element of humanist justification that is saved. This form of equality was Rancière’s presupposition, of course, and its point is clear: to avoid arbitrary preferences for particular values at the cost of others.

We began with the insight that hermeneutics is an answer to human finitude, which cannot be definitively overcome. Interpretation is, in the words of Wilhelm Dilthey, *eine unendliche Aufgabe* (see also Plessner, 1981, p. 185). Working out the implications of human rights and interpreting particular cultural differences both require an infinite life but – *vita brevis* – humans are bound to a limited range of perspectives, as we have already seen from Plessner’s remark. What is human remains bound to time and place, much like Rancière’s political subject. That is not to say that interpretation is fruitless. It is precisely the experience of finitude that calls upon our interpretative faculty, because we have to act within the constraints that we were born into.



**Spatial finitude, human rights and hermeneutics**

We are now in a position to consider what our discussion about rights implies for our understanding of the problem posed in this second part: how can the practice of human rights be connected to spatial finitude? Recall that the problem of spatial finitude received perhaps its most decisive treatment in the work of Helmuth Plessner. Making use of Plessner's anthropology once more will serve to invigorate the central notions of our present investigation.

This anthropological analysis confirms the dilution of the own and the foreign on another level. According to Plessner, excentric positionality entails three anthropological laws (see Plessner, 2004, pp. 15-64): firstly, that humanity can only exist by artificial, that is to say, by non-biological and in that sense non-human means; secondly, that we do not have unmediated access to ourselves because this artificial addition has a certain momentum of its own. This was recognized by Welsch's transcultural approach: our own culture is determined, in part, by how we relate to what is foreign, and *vice versa*. The third and final anthropological law concerns humanity's search to overcome its decentered relation with respect to itself. Rancière's polemic against the political equalization of society with the *police*, which foregoes the element of society that differentiates society from itself, can be seen as a quest against the anthropological need to search out the "utopian standpoint", as Plessner calls it (*ibid.*, pp. 60-64). Another way to put this is that human rights, which I have classed earlier as interpretations of what is given, oppose a tendency that is pervasive in man, namely his drive to be identical with himself. The utopian standpoint, which seeks to eliminate the self-distancing tendencies characteristic of excentric positionality, is simultaneously the attempt to relieve man of reflexivity. Human rights, at least as I interpreted them in this essay, are a reflection of the non-reality of the utopian standpoint. Life is short, our reach is limited and we must act. We are confronted not only with our temporal finitude, but also with our spatial finitude: human rights are interpretative perspectives that allow us to compensate the latter. While human rights may begin as attempts to secure our own rights, their language ('inner logic') constrains us to respect the rights of others as well. Their ideal limit would force us to be truly 'outside of oneself', in Plessner's sense.

While Plessner's utopian standpoint cannot be attained, the same is true of the equally utopian standpoint of fully realized human rights. Rancière theorizes that there will always be excluded groups, but still stresses the importance of politics. Hermeneutics teaches us a related lesson, which speaks both of limits and hopes.

**Conclusion**

Interpretation allows us to venture beyond the stalemate of a dispute about supposed facts: some of the most important political disagreements are about facts-through-frames. That insight allows us to engage in a dialogue in the true sense of the word. While we should not expect agreement to arise, whether immediately or in due course, human rights have been 'declarative' from their outset.

What seems clear is that the way in which the situation is framed or interpreted has real consequences for the conflict itself. If we see disagreements between various interpretations of human rights as a conflict between us and them, between what is own and what is foreign, then this starting point will only be reiterated, so that the conflict can never be resolved. Reflexivity offers a more promising point of departure. While it does not eliminate conflict, it ceases to interpret the conflict in 'bipolar' terms. This throws a completely new light on the human rights discussion. In order not to prematurely 'adjudicate' the conflict, moreover, human rights themselves have to be interpreted in a way that is not simultaneously a show of support for any position within the discussion. I have offered such an interpretation by introducing the excentric concept of culture and an interpretation of human rights that is compatible with it. While human rights facilitate a common language, it is not the case that all discussion is thereby at an end: rather, they provide a framework within which the discussion can be had on equal moral terms.

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### Editorial note

Since this essay was written by a member of the advisory board of the Erasmus Student Journal of Philosophy, it was subject to a more extensive review procedure. For more information, see <http://www.eur.nl/fw/english/esjp/submissions>

### Notes

1. Quotes from the original German include an endnote, which contains my own translation.
2. See also Angle (2002, p. 1) for a related comment by Liu Huaqui.
3. "Hermeneutics is the art of getting out of a text what is not contained in it: why else would we need it, if the text is there? Do we, in fact, need it? What is it, really, that one stands in need of, when one needs to interpret, when one needs hermeneutics: how should, how can hermeneutics itself be understood and interpreted?"
4. "Interpretation would be impossible if expressions were fully alien. It would be unnecessary if expressions contained nothing alien within them. Therefore, it is contained within these two extremes."
5. "Man, set within his borders, which constrain him as a living thing, [yet] conducts his life beyond them. He does not only live and experience: he experiences his experience."
6. Honneth (2000, p. 267): "Interpretationsperspektive". Honneth uses this concept in the context of the crisis facing the West after the collapse of the Soviet Union: should we see

the civil wars of the nineties as a development towards democracy or as proof that centralized power is required to keep everyone in check? Honneth argues that this is a matter of interpretation: precisely the point I wish to make with regard to the present situation, which is characterized not by the disappearance of a power block (the Society Union), but by the emergence of one (China).

7. This Diltheyan idea was pointed out to me by Jos de Mul.

8. It is very important to note that it is not 'political' in the sense of the 'political' conception of human rights, which applies to the police instead of politics in Rancière's sense.

9. As an even more everyday aspect of Western culture, I could cite the Western way of dealing with the elderly, which contrasts poorly not only to human rights standards, but also to Confucian-inspired convictions and practice on that issue (see Appiah, 2005, p. 264).

10. See Hunt (2007) for a purely historical argument to the effect that the same 'inner logic of rights' described by Rancière has been a decisive normative factor since the French Revolution.

11. It can be argued that Western criticism of Chinese practice reveals a double standard (see Peerenboom, 2005).

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